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## Claiming work-related expenses?

The ATO is paying attention to people who are **over-claiming work-related expenses**.

To get your deductions right, you need to satisfy the following rules:

- you must have spent the money and were not reimbursed;
- it must be directly related to earning your income, and not of a private nature;
- you must have a record to prove it.

## myDeductions – a record keeping tool

If you are a sole trader and have simple tax affairs, the ATO's myDeductions tool can help you if you are looking for a quick and easy way to manage your records.

Available through the ATO app, the tool allows taxpayers to use their smart devices to capture and record business income, expenses and vehicle trips and in doing so minimise the need for paper receipts.

Taxpayers can also use the tool to record a range of personal and employee work related expenses.

## Housing tax deductions: disallowing travel deductions and limiting depreciation deductions

The Government has released exposure draft legislation and explanatory material for the housing affordability and tax

integrity measures the Government announced in the 2017-18 Budget.

The Government introduced these measures as they have concerns around the abuse of deductions in relation to rental properties that do not represent a legitimate commercial need. Travel deductions for individual investors with residential investment properties, including travel costs associated with inspecting and maintaining properties, will no longer be deductible. This change will not prevent investors from claiming a deduction for the expense of engaging third parties such as real estate agents to provide property management services for investment properties.

It appears that significant abuse of the tax system has been witnessed in relation to property investors and advisers claiming excess deductions. This change will improve the integrity of the tax system by limiting plant and equipment depreciation deductions to outlays actually incurred by individual investors in residential real estate properties.

## ATO warning on holiday rental properties

The ATO has issued a [media release](#) reminding taxpayers that it is paying close attention to rental properties located in popular holiday destinations around Australia.

*Claiming deductions for your holiday home?*

Make sure it is genuinely available for rent by answering these four questions:

- How do you advertise your rental property?

- What location and condition is your rental property in?
- Do you have reasonable conditions for renting the property and charge market rate?
- Do you accept interested tenants, unless you have a good reason not to?

## Changes to capital gains withholding rules for foreign and Australian residents

The ATO has issued a [reminder](#) that changes to the rules for foreign resident capital gains withholding (FRCGW) have come into effect for all property contracts entered into on or after 1 July 2017:

- for real property disposals where the contract price is \$750,000 and above (previously \$2 million);
- the FRCGW withholding tax rate is now 12.5% (previously 10%).

The changes mean that Australian residents selling real estate with a market value of \$750,000 or more will need to apply for a clearance certificate from the ATO to ensure amounts are not withheld from the sale proceeds.

Where a valid clearance certificate is not provided by settlement, the purchaser is required to withhold 12.5% of the purchase price and pay this to the ATO.

The previous threshold and rate will apply for any contracts that were entered into before 1 July 2017, even if they are not due to settle until after 1 July 2017.

### **Main residence exemption**

From 9 May 2017, the Government will remove the

entitlement to the CGT main residence exemption for foreign residents that have dwellings that qualify as their main residence. Therefore, any such capital gain or loss arising upon disposal of a foreign resident's main residence will need to be recognised.

### **Principal asset test**

From 9 May 2017, the Government will modify the foreign resident CGT regime to clarify that, for the purpose of determining whether an entity's underlying value is principally derived from taxable Australian real property, the principal asset test will apply on an associate inclusive basis.

## Housing-related superannuation measures

The Government recently released draft legislation which will establish a First Home Super Saver Scheme, and allow a special "downsizing" contribution into superannuation.

The draft legislation for the First Home Super Saver Scheme would allow individuals to save for their first home inside superannuation. Under the scheme, first home savers who make voluntary contributions into the superannuation system would be able to withdraw those contributions, and an amount of associated earnings, for the purposes of purchasing their first homes. Concessional tax treatment would apply to amounts withdrawn under the scheme.

The draft legislation for the downsizing measure would allow individuals aged 65 years or over to make non-concessional contributions of up to \$300,000 from the proceeds of selling their main residences to their superannuation accounts.

Downsizer contributions will be able to be made regardless of the other contribution caps and restrictions that might apply to making voluntary contributions. This measure would apply to proceeds from contracts for the sale of a main residence entered into (exchanged) on or after 1 July 2018.

## Superannuation – Key rates and thresholds

The ATO has released the key superannuation rates and thresholds that apply to contributions and benefits, employment termination payments (ETP), super guarantee and co-contributions.

For the 2017-18 income year, the:

- concessional contribution cap is \$25,000
- non-concessional contribution cap is \$100,000 (conditions apply)
- CGT cap amount is \$1,445,000
- Div 293 tax threshold amount is \$250,000
- low rate cap amount is \$200,000
- ETP cap for life benefit termination payments is \$200,000
- ETP cap for death benefit termination payments is \$200,000.

## Superannuation changes to be aware of

### **a) Change to personal super contributions deductions**

In 2016-17, an individual (mainly those who are self-employed) can claim a deduction for personal super contributions where they meet certain conditions. One of these

conditions is that less than 10% of their income is from salary and wages. This is known as the 10% maximum earnings condition.

From 1 July 2017, the 10% work test for claiming a deduction for personal super contributions will be removed. This means most people under 75 years old will be able to claim a tax deduction for personal super contributions (including those aged 65 to 74 who meet the work test).

#### **b) Changes to concessional contributions – constitutionally protected and unfunded defined benefit funds**

From 1 July 2017, there are changes to the definition of concessional contributions for constitutionally protected funds (CPFs) and unfunded defined benefit funds. These contributions will count towards your concessional contributions cap.

The ATO has released information on the following topics, which can be accessed on the [ATO website](#).

- What are CPFs and unfunded defined benefit funds?
- What are the changes?
- New rules for accumulation interests
- New rules for defined benefit interests
- Excess concessional contributions.

#### **c) Removal of election to treat super income streams as lump sums**

From 1 July 2017, the Government will remove the ability to treat super income stream benefits as super lump sums for tax purposes.

This change means that, if you are receiving a super income stream, and normally would have made this election, you will

no longer have access to the super lump sum low rate cap for payments from your income stream. Therefore, the amount of tax you have to pay on your super income stream may change.

#### **d) New transfer balance cap – child death benefit recipients**

From 1 July 2017, the Government has introduced a new transfer balance cap for retirement phase accounts. Different rules apply for child recipients of death benefit income streams.

Child recipients of a death benefit income stream from a deceased parent may have a modified transfer balance cap, rather than the general transfer balance cap (\$1.6 million in 2017-18).

The normal transfer balance rules apply, but the modified transfer balance cap depends on the deceased parent's super interests.

#### **e) New transfer balance cap – death benefit income streams**

From 1 July 2017, there is a \$1.6 million cap on the total amount that can be transferred and held in the tax-free retirement phase. Special rules apply to death benefit income streams.

If you start to receive a death benefit income stream, a credit will arise in your transfer balance account. The amount of the credit and when it counts towards your transfer balance cap will depend on whether the death benefit income stream is reversionary or non-reversionary:

- reversionary – the income stream reverts to you automatically upon the member's death;
- non-reversionary – the trustee has the power to

choose between paying you a lump sum or an income stream (or a combination of these).

#### **f) Transfer balance account – credits and debits**

From 1 July 2017, the Government introduced a new transfer balance cap for retirement phase accounts. Your transfer balance account tracks the amounts you transfer into or out of retirement phase and allows you to see whether you have exceeded your transfer balance cap.

## **Tax incentives for early stage investors**

From 1 July 2016, investors who purchase new shares in a qualifying early stage innovation company (ESIC) may be eligible for tax incentives.

The tax incentives provide eligible investors who purchase new shares in an ESIC with a:

- **non-refundable carry forward tax offset** equal to 20% of the amount paid for their qualifying investments. This is capped at a maximum tax offset amount of \$200,000 for the investor and their affiliates combined in each income year;
- **modified capital gains tax (CGT) treatment**, under which capital gains on qualifying shares that are continuously held for at least 12 months and less than 10 years may be disregarded. Capital losses on shares held less than ten years must be disregarded.

More information on qualifying for the tax incentive, the sophisticated investor test and calculating the early stage investor tax offset can be found on the [ATO website](#).

## Changes to Medicare Levy and Medicare Levy Surcharge

The *Treasury Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Act 2017* amends the *Medicare Levy Act 1986* and the *A New Tax System (Medicare Levy Surcharge - Fringe Benefits) Act 1999* to increase:

- the Medicare levy low-income thresholds for individuals and families (along with the dependent child/student component of the family threshold) in line with movements in the consumer price index (CPI);
- the Medicare levy low-income threshold for individuals and families eligible for the seniors and pensioners tax offset (along with the dependent child/student component of the family threshold), in line with movements in the CPI; and
- the Medicare levy surcharge low-income threshold in line with movements in the CPI.

### In addition:

- The singles threshold will increase from \$21,335 to \$21,655;
- The family threshold will increase from \$36,001 to \$36,541 plus \$3,356 for each dependent child or student;
- The single seniors and pensioners threshold will increase from \$33,738 to \$34,244; and
- The family threshold for seniors and pensioners will increase from \$46,966 to \$47,670 plus \$3,356 for each dependent child or student.

## What's new for small businesses

### a) Tax Concessions

Tax concession rules for small businesses have changed. The changes are effective from 1 July 2016, and will apply from your 2017 tax return.

Find out about:

- [Expanded access to small business concessions](#)
- [Increased small business income tax offset](#)
- [Company tax rate cut for small businesses](#)
- [Simpler depreciation rules – instant asset write-off](#)

### b) Expanded access to small business concessions

More businesses are now eligible for most small business tax concessions. From 1 July 2016, a range of small business tax concessions became available to all businesses with turnover less than \$10 million (the turnover threshold). Previously the turnover threshold was \$2 million.

The \$10 million turnover threshold applies to most concessions, except for:

- the small business income tax offset, which has a \$5 million turnover threshold from 1 July 2016; and
- capital gains tax (CGT) concessions, which continue to have a \$2 million turnover threshold.

The turnover threshold for fringe benefits tax (FBT) concessions increased to \$10 million from 1 April 2017.

### c) Increased small business income tax offset

You can claim the small business income tax offset if you are a small business sole trader, or have a share of net small business income from a partnership or trust.

From the 2016–17 income year, the small business income tax offset:

- increased to 8%, with a limit of \$1,000 each year
- applies to small businesses with turnover less than \$5 million.

The tax offset increases to 10% in 2024–25, to 13% in 2025–26 and to 16% from the 2026–27 income year. The amount of your offset is based on amounts shown in your tax return.

### d) Company tax rate cut for small businesses

For the 2016–17 income year, the company tax rate for small businesses decreased to 27.5%. Companies with turnover less than \$10 million are eligible for this rate.

The maximum franking credit that can be allocated to a frankable distribution has also been reduced to 27.5% for these companies – in line with the company tax rate. The reduced company tax rate of 27.5% will progressively apply to companies with turnover less than \$50 million by the 2018–19 income year. From 2024–25, the rate will reduce each year until it is 25% by 2026–27. If you lodged your 2016–17 company tax return early:

- If your turnover is less than \$2 million, the ATO will amend your return for you and apply the lower tax rate.
- If your turnover is from \$2 million to less than \$10 million, you will need to review your tax return

and lodge an amendment if required.

A Bill was tabled on 11 May 2017 to gradually extend the reduced company tax rate to all companies.

***Tax rate cuts – “not meant to apply to passive investment companies”***

On 4 July 2017, the Minister for Revenue and Financial Services, Ms Kelly O'Dwyer MP, issued a statement on the [tax rate cuts for small companies](#).

Minister O'Dwyer said, “Reports today that the ATO has broadened the interpretation of company tax cuts are premature however, the policy decision made by the Government to cut the tax rate for small companies was not meant to apply to passive investment companies.”

Minister O'Dwyer said the ATO has issued a draft ruling and will in due course provide other guidance.

***e) Instant asset write-off extension***

Australia's 3.2 million small businesses can continue to purchase equipment up to \$20,000 and write it off immediately under legislation passed by the Senate on 15 June 2017. The period in which small business entities can access the instant asset write-off has been extended by 12 months to 30 June 2018. It was originally intended to end on 30 June 2017.

The Small Business Minister said recent tax cuts for small business – which delivered a 27.5% tax rate – also redefined ‘small business’, meaning more Australian businesses are now eligible for the instant asset write-off.

More businesses are now eligible to buy equipment (new or second hand) up to \$20,000

and write it off immediately after this legislation passed the Senate. Multiple claims can be made under the program.

‘Small business’ has also been redefined for tax purposes as having a turnover less than \$10 million, up from \$2 million.

## **GST**

### **a) Simpler BAS**

From 1 July 2017, small businesses now have less GST information to report on their business activity statement (BAS). This will be the default GST reporting method for small businesses with a GST turnover of less than \$10 million.

The ATO automatically transitioned eligible small business' GST reporting methods to Simpler BAS from 1 July 2017.

### **b) GST on low value imported goods – Summary of reforms**

The Government has passed the *Treasury Laws Amendment (GST Low Value Goods) Act 2017* which will extend GST to low value imports of physical goods imported by consumers from 1 July 2018.

Businesses that meet the A\$75,000 registration justify threshold will need to take action now to review their business systems to ensure that they are able to comply.

The existing processes to collect GST on imports above \$1,000 at the border are unchanged.

In summary, the reforms:

- make supplies of goods valued at A\$1,000 or less at the time of supply connected with Australia if the goods

are purchased by consumers and are brought into Australia with the assistance of the supplier;

- treat the operator of an electronic distribution platform (EDP) as the supplier of low value goods if the goods are purchased through the platform by consumers and brought into Australia with the assistance of either the supplier or the operator;
- treat re-deliverers as the suppliers of low value goods if the goods are delivered outside of Australia as part of the supply, and the re-deliverer assists with their delivery into Australia as part of a shopping or mailbox service that it provides under an arrangement with the consumer;
- allow non-resident suppliers of low value goods that are connected with Australia to elect to access the simplified registration and reporting system; and
- prevent double taxation.

### ***Treasurer's press release on GST low value goods***

The Treasurer, the Hon Scott Morrison MP, released a statement following the passage of the *Treasury Laws Amendment (GST Low Value Goods) Act 2017* by the Parliament on 21 June 2017.

The Treasurer said, “Turnbull Government laws will level the playing field for Australian businesses by applying the GST to goods costing \$1,000 or less supplied from offshore to Australian consumers from 1 July 2018.”

Using a vendor collection model, the law will require overseas suppliers and online marketplaces such as Amazon and eBay with an Australian GST turnover of \$75,000 or

more to account for GST on sales of low value goods to consumers in Australia.

### **c) Buy services or digital products from overseas?**

From 1 July 2017, GST will apply to imported services and digital products.

Australian GST-registered business can avoid GST on these purchases from a non-resident supplier if they provide their ABN to the non-resident supplier and state that they are registered for GST.

#### **Reminder from the ATO re Applying GST to imported services and digital products**

The ATO has issued a reminder that if overseas suppliers sell imported services or digital products to Australian consumers and they meet the GST registration turnover threshold, they need to register for GST. They will meet the registration turnover threshold if their taxable sales to Australian consumers in a 12-month period are A\$75,000 or more. Once registered, they will need to report and pay GST on sales to the ATO.

### **d) GST - Simplified Accounting Methods determination for food retailers**

The [Goods and Services Tax: Simplified Accounting Methods Determination for Food Retailers - Business Norms, Stock Purchases and Snapshot Methods](#) determination will repeal and replace Simplified GST Accounting Methods Legislative Instrument (No 1) 2007 - F2007L02577, registered on 14 August 2007.

This draft determination is substantially the same as the previous determination that it replaces. If you were eligible to use a particular simplified accounting method (SAM) specified in the previous determination, you will continue

to be eligible to use that SAM under this determination.

### **e) GST input tax credits disallowed – tax invoices not enough**

*Re GH1 Pty Ltd (in liq) and FCT [2017] AATA 1063* (5 July 2017) a property development company was not entitled to input tax credits in relation to bulk earthwork services supplied to it by another land development company. The evidence showed that purported tax invoices did not evidence any actual supplies made to the taxpayer, evidence from various sources, including third parties, showed that all relevant development works were completed prior to the dates of the purported invoices, and the taxpayer had already claimed the input tax credits in its BASs for previous tax periods.

The Administrative Appeals Tribunal noted that the taxpayer bore a two-fold onus: to prove, on the balance of probabilities, that the assessment was excessive and what the correct assessment ought to be. In this case, the taxpayer had failed to discharge that burden.

The Tribunal observed that the mere existence of a "tax invoice" is not, by itself, sufficient to establish that a "taxable supply" (under s 9-5 of the GST Act) and corresponding "creditable acquisition" (under s 11-5 of the GST Act), had, in fact, occurred.

### **f) GST – removing the double taxation of digital currency**

On 9 May 2017, the Government announced that from 1 July 2017 it will [align the GST treatment of digital currency \(such as Bitcoin\) with money](#).

Digital currency is currently treated as intangible property for GST purposes. Consequently, consumers who use digital currencies as payment can effectively bear GST twice: once

on the purchase of the digital currency and again on its use in exchange for other goods and services subject to GST. This measure will ensure purchases of digital currency are no longer subject to the GST.

No changes to the income tax treatment of digital currency are proposed.

## **Changes for employers of working holiday makers**

On 1 January 2017, the tax rate for working holiday makers on 417 or 462 visas changed. If you employ working holiday makers on 417 or 462 visas, you will need to register with the ATO.

Employers who do not register with the ATO will have to withhold tax at the foreign resident tax rate of 32.5% from the first dollar earned. Penalties may apply for failing to register.

## **Streamlined reporting with Single Touch Payroll**

Employers with 20 or more employees will need to report through Single Touch Payroll from 1 July 2018. The ATO will help and support you to transition during the first year of reporting.

## **Changes to tax withholding amounts**

### **a) Withholding on salary and wages**

The way tax is calculated on salary and wages has changed.

From 1 July 2017, the:

- temporary budget repair levy has been removed; and
- Medicare levy low-income threshold increased.

**b) *TFN withholding for closely held trusts***

Beneficiaries need to quote their tax file number (TFN) to the trustee to avoid having amounts withheld from their payments or unpaid entitlements.

If a beneficiary doesn't quote their TFN before a payment or entitlement occurs, the trustee must withhold from the payment or entitlement, pay the withheld amount to the ATO, and lodge an annual report with details of all withheld amounts.

**c) *Withholding in business transactions***

Any business or organisation carrying on an enterprise should quote their Australian business number (ABN) when supplying goods or services to another enterprise. If the supplier does not quote their ABN, the general rule is that the payer must withhold 47% (from 1 July 2017) from their payment and send the withheld amount to the ATO.

**d) *Withholding from unused leave payments on termination of employment***

Under the pay as you go (PAYG) withholding system, when an employee leaves, you may have to withhold from unused leave payments.

**e) *Withholding from dividends paid to foreign residents***

If you pay dividends to a foreign resident, the unfranked component of each of those payments is subject to a final withholding tax.

## **The ATO's compliance approach to employers**

The ATO has provided details of its approach to compliance by employers with their obligations. The ATO says that its compliance approach supports employers who engage with the ATO and want to get things right. The ATO takes firmer action against those unwilling to meet their obligations. The approach is based on the relevant facts and circumstances of each case.

## **Changes to PAYG instalment conditions**

From 1 July 2017, changes to administrative rules about who needs to pay PAYG instalments may affect you.

The ATO will automatically remove companies, superannuation funds, and self-managed superannuation funds from the PAYG instalment system if their notional tax is less than \$500. This will apply even if their instalment rate is greater than zero percent, and includes those registered for GST.

## **Taxable payments annual report was due**

If you are in the building and construction industry and you paid contractors during 2016-17, your Taxable Payments Annual Report was due by 28 August 2017. Please contact us if you believe you may have an obligation to lodge this report and we can assist you.

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